



ENTERED  
04/22/2008

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

**IN RE:**

**EARNEST HARRIS, and  
MATTIE HARRIS**

**Debtors**

**EARNEST HARRIS, and  
MATTIE HARRIS, on behalf of  
themselves and all other similarly  
situated Chapter 13 debtors**

**Plaintiffs,**

**vs.**

**FIDELITY NATIONAL  
INFORMATION SERVICES INC.  
d/b/a FIDELITY NATIONAL  
FORECLOSURE & BANKRUPTCY  
SOLUTIONS,**

**Defendant**

**Case No. 03-44826  
Chapter 13**

**Adv. No. 08-3014**

**REPORT AND RECOMMENDATION  
ON DEFENDANT'S MOTION FOR AN ORDER WITHDRAWING REFERENCE  
OF ADVERSARY PROCEEDING PURSUANT TO 28 U.S.C. § 157(d)  
[Docket No. 9]**

There is pending before this Court the Defendant's Motion for an Order Withdrawing Reference of Adversary Proceeding. [Docket No. 9.] The Court recommends that the District Court withdraw the reference of this adversary proceeding for the reasons set forth below.

After this Court issued its Order Granting in Part, and Denying in Part, Defendant's Motion to Dismiss [Docket No. 39] and the supporting Memorandum Opinion [Docket No. 41], the

Defendant filed a Motion for Leave to Appeal [Docket No. 46], which seeks an interlocutory appeal of this Court's denial of portions of the Motion to Dismiss. The Plaintiffs have not filed any response opposing the Motion for Leave to Appeal.

Additionally, simultaneously with the filing of the Motion for Leave to Appeal, the Defendant filed a Motion for Certification of Appeal Pursuant to 28 U.S.C. § 158(d)(2) (the Motion for Direct Certification) [Docket No. 47], which seeks to circumvent appellate review by the District Court and proceed directly to the Fifth Circuit.

The legal determinations in the Motion for Leave to Appeal and the Motion for Direct Certification are nearly identical. The District Court, not this Court, has jurisdiction over the Motion for Leave to Appeal. Should the District Court grant the Motion for Leave to Appeal, it will then have to consider the Motion for Direct Certification. After having ruled on both of these motions, the District Court will be as, if not more, familiar than this Court with the facts and parties in this adversary proceeding. Accordingly, for reasons of judicial efficiency and economy, as well as the reduction of the parties' expenses, the Court recommends that the District Court withdraw the reference of this adversary proceeding.

Signed on this 22nd day of April, 2008.

A handwritten signature in black ink, appearing to read 'Jeff Bohm', with a long horizontal flourish extending to the right.

Jeff Bohm  
U.S. Bankruptcy Judge

Bankruptcy Noticing Center  
2525 Network Place, 3rd Floor  
Herndon, Virginia 20171-3514

# CERTIFICATE OF SERVICE

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Case: 08-03014

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Page 1 of 1  
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Houston, TX 77019-2165  
aty +Gerald Scott Siegmyer, Siegmyer Oshman et al, 10th Flr, 2777 Allen Pkwy,  
Houston, TX 77019-2165  
aty Johnie J Patterson, II, Walker & Patterson, P.C., P.O. Box 61301, Houston, TX 77208-1301  
aty +Joseph G Epstein, Winstead PC, 1100 JPMorgan Chase Tower, 600 Travis,  
Houston, TX 77002-3009  
aty +Kurt F Gwynne, Reed Smith LLP, 1201 Market St, Ste 1500, Wilmington, DE 19801-1163  
aty +Mark S Melodia, Reed Smith, 136 Main St, Ste 250, Princeton, NJ 08540-5789  
aty Michael Glen Walker, Walker & Patterson, P O Box 61301, Houston, TX 77208-1301  
aty +Miriam Trubek Goott, Walker Patterson PC, P.O. Box 61301, Houston, TX 77208-1301  
aty +Stephen Wayne Sather, Barron & Newburger, P.C., 1212 Guadalupe, Ste 104,  
Austin, TX 78701-1801  
pla +Earnest J Harris, 4903 Cotton Ridge Trail, Houston, TX 77053-5333  
dft +Fidelity National Information Services, Inc, 601 Riverside Ave., Jacksonville, FL 32204-2957  
wit +June A. Mann, Mann & Stevens, P.C., 550 WestCott Street, Suite 560, Houston,, Tx 77007-9000  
wit +Kirk Schwartz, Baxter & Schwartz, 5450 NW Central, Suite 307, Houston, TX 77092-2063  
intp +Mann & Stevens, 550 Westcott St., Suite 560, Houston, TX 77007-9000  
pla +Mattie J. Harris, 4903 Cotton Ridge Trail, Houston, TX 77053-5333

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NONE.

TOTAL: 0

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NONE.

TOTAL: 0

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I, Joseph Speetjens, declare under the penalty of perjury that I have served the attached document on the above listed entities in the manner shown, and prepared the Certificate of Service and that it is true and correct to the best of my information and belief.

Meeting of Creditor Notices only (Official Form 9): Pursuant to Fed. R. Bank. P. 2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.

Date: Apr 24, 2008

Signature:

